

REMARKS

Claims 2-5 are pending. By this Amendment, no claims are cancelled, no claims are amended and no new claims are added.

Rejection Under 35 U.S.C. 103(a)

The Examiner rejected claims 2-5 under 35 U.S.C. 103(a) as unpatentable over U.S. Pat. No. 5,891,173 to Brewer (the "Brewer '173 Patent"). This rejection is respectfully traversed.

The Brewer '173 Patent and the instant patent application have inventors in common. Enclosed herewith is a statement made pursuant to MPEP § 706.02(l)(2) indicating that Application 10/760,040 and U.S. Patent No. 5,891,173 to Brewer were, at the time the invention of Application 10/760,040 was made, owned by, or subject to an obligation of assignment to, Cardiac Science, Inc. Hence, the Brewer reference does not constitute prior art. Reconsideration and withdrawal of the rejection of claims 2-5 under 35 U.S.C. 103(a) are respectfully requested.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B. D. Pedersen", followed by a horizontal line extending to the right.

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